

The Ethics Advisory Committee (EAC) is appointed by the Chief Justice of the state Supreme Court under General Rule 10, and consists of judges from the Court of Appeals, superior court, courts of limited jurisdiction, an attorney, and the Administrator of the Courts. This is the designated body to advise judicial officers on the application of the Code of Judicial Conduct. The Ethics Advisory Committee issues formal advisory opinions that are circulated publicly by the Administrative Office of the Courts. The opinions are available at a searchable Web site at www.courts.wa.gov, under 'Programs and Organizations.'

STATE OF WASHINGTON
ETHICS ADVISORY COMMITTEE
OPINION 14-01

Question

May a newly appointed, full-time judicial officer finish out the last two years on the board of fire commissioners? Does it make a difference if the judicial officer avoids positions of leadership on the board such a chair or vice chair? Does it make a difference if the judicial officer recuses from voting on whether or not to put a levy of the ballot?

A person was recently appointed as the judge in a municipal court. The positions are part-time in each city/town but collectively require a judge to be in court during business hours five days a week. This is an appointed and not an elected position.

Prior to this appointment, the person was elected to the non-partisan office of fire commissioner. The duties of a fire commissioner are set forth in RCW 52.14.100. <http://apps.leg.wa.gov/rcw/default.aspx?cite=52.14.100>

Generally, the board adopts a budget, sets fire district policy, and every year or so authorizes a levy to be placed on the ballot. Even when a levy is authorized it is not necessarily an endorsement by the board or its members. When a levy is authorized, board members are not named in the voter's pamphlet or on the ballot that pertains to the levy.

There are no criminal code violations are that issued by the fire districts.

The position is entitled to compensation but there is an option of receiving no compensation.

Answer

The intent of the Code of Judicial Conduct is to ensure an independent and impartial judiciary. This is accomplished by clearly setting out to whom the Code applies, the time for compliance, and the restrictions on activities in which judges are permitted to engage. CJC 1.2 and 2.1 require judicial officers act in a manner that promotes public confidence in the independence and impartiality of the judiciary and

that judicial duties take precedence over all other extrajudicial activities. CJC 3.1 also place restrictions on extrajudicial activities in which judicial officers may participate.

CJC 4.5 provides in pertinent part that upon becoming a candidate for a nonjudicial office, a judge is required to resign from judicial office. By implication, a judge is prohibited from holding a nonjudicial elected office while serving as a judicial officer.

The powers and duties of the board of fire commissioners are set out in RCW chap. 52.14. RCW 52.14.100 provides in part that the duties of the board include managing and conducting the business affairs of the district, executing all necessary contracts, adopting reasonable rules to govern the district and to perform its functions and generally to perform all such acts as may be necessary to carry out the objects of the creation of the district.

Because of the restrictions set forth in the Code of Judicial Conduct, a judicial officer may not continue to serve as a fire district commissioner following appointment to the judiciary. RCW 52.14.100 empowers commissioners to “manage and conduct the business affairs of the district,” which is not compatible with the restrictions on activities set out in CJC 3.1 and 4.5.

The judicial officer is required to comply with the provisions of the Code as soon as they become applicable. It does not matter if a judicial officer does not assume a leadership position on the board or if the judicial declines to participate in voting on district levies for the ballot. It is the general nature of the position that requires the judicial officer resign from the position when the judicial officer assumes office.